

**ARTICLE II - WEEDS**

**25-2-1** **VIOLATION.** It shall be unlawful and is hereby declared a nuisance under this Code, for any property owner, occupant, lessee or any person substantially in control of the offending property, to permit weeds, grasses or plants, of any kind, to reach a height of six (6) inches, or to allow flowers, trees, bushes, shrubs or plants of any kind to obstruct the view necessary for the safe operation of motor vehicles, or otherwise, in any manner, endanger the health and safety or prevents or impedes the municipality in its duties.

**25-2-2** **EXCEPTIONS.** This section shall not apply to ornamental plants such as flowers, trees, bushes, and shrubs or vegetables contained within a garden plot, unless, in the discretion of City officials, it is determined that such plants obstruct the view necessary for the safe operation of motor vehicles or otherwise, in any manner, endangers health and safety or prevents or impedes the municipalities' performance of its duties.

**25-2-3** **NOTICE TO ABATE.** A City official may issue and serve, a Notice to Abate the nuisance. The Notice to Abate shall require the violator to cut and/or remove the offending weeds, grasses or plants within seven (7) days after service of the Notice.

**25-2-4** **REMEDIES FOR FAILURE TO ABATE.** If the violator has failed to fully abate the nuisance within the time provided in the Notice to Abate, the City may issue an ordinance violation, may apply to the Circuit Court for an order requiring the owner to abate and/or may, itself, proceed to abate the nuisance, or cause the nuisance to be abated. Failure to abate the nuisance within seven (7) days shall be deemed neglect or a refusal to cut, trim, or remove the offending vegetation.

**25-2-5** **ABATEMENT BY THE CITY.** If the violator has failed to fully abate the nuisance within the time provided in the Notice to Abate, the City may go upon the offending property and provide for the cutting, trimming and/or removal of the offending weeds, grasses or plants, trees, bushes or, shrubs.

**25-2-6** **OBSTRUCTION OF ENFORCEMENT.** It shall be unlawful and is hereby declared a nuisance, separate and apart from the violation specified in § 25.2.1, for any property owner, occupant, lessee or any person substantially in control of the offending property. To place obstructions, including but not limited to, ornamental plants, garden vegetables, trees, shrubs, markings, signs or any other physical object in or near. Any portion of the offending property which would prevent or inhibit the City from abating the nuisance. City employees or officials may remove all obstructions necessary to allow the performance of their duties and insure their safety in the performance of those duties.

**25-2-7** **RECOVERY OF COSTS.** The City may recover the reasonable costs of abating the nuisance from the owners of the offending property, which may, at the discretion of the City, include attorney's fees and court costs.

Revised Code of Ordinances

**25-2-8 Notice of Lien.** After the City has abated the nuisance, a Notice of Lien, substantially the form contained in Appendix B of this Article, and Invoice for the reasonable costs of abatement, shall be personally served and/or sent by certified mail to the person to whom was sent the tax bill for the general taxes on the property for the last preceding year. If the person receiving the tax bill for the last preceding year is not now the owner, the City may, but is not required to, send a similar notice by regular mail to the owner of the property. The Notice of Lien shall have attached thereto and incorporated by reference therein, the text of 65 ILCS 5/1 1-20-7 and the text of this Article of the Code and shall identify the offending property by common description and the location upon the property of the weeds that were cut.

**25-2-9 Statutory Lien.** Within 60 days after the City has abated the nuisance, a Statutory Lien substantially in the form contained in Appendix C of this Article, may be filed in the office of the recorder in the county in which the offending property is located. The lien shall consist of a sworn statement setting out a description of the real estate sufficient to identify the property. The amount of money representing the reasonable cost of abating the nuisance and the date or dates costs were incurred by the City.

**25-2-10 Payment of Lien.** Upon payment of the lien, the City shall prepare and execute a release of lien substantially in the form contained in Appendix D of this Article, which shall be filed in the office of the recorder in the county in which the offending property is located.

**25-2-11 Foreclosure of Lien.** The lien may be enforced by proceedings to foreclose with the property being sold at a Sheriffs sale and the proceeds used to discharge the lien.

**Attorney's Comment:** Placing a lien on real property can be a powerful tool in achieving compliance with this Article of the Code. After placing a lien, a foreclosure action may be brought and the property sold at a sheriff's action to satisfy the lien. Once property owners understand the risk, most will immediately pay the lien to avoid losing their property. However, owners who have abandoned their property, or those whose property is close to or in mortgage foreclosure will still not comply. Abandoned property in foreclosure is a difficult problem for municipalities. Mortgages become a lien when filed and that is usually at or near the time the property is purchased. This is usually long before a mowing lien is filed. Because they are filed first, a mortgage is a superior lien and will be paid first in foreclosure. Usually there is no money left over to discharge any other liens other than the mortgage. Filing a lien in these cases is usually a waste of time and money. However, if the lender takes a deed in lieu of foreclosure, a lender may itself pay the lien to clear title to the property. After foreclosure, when the lender takes title to the property and effectively becomes the new owner, keeping the property mowed is usually not a high priority. However, mowing liens filed after the lender takes title will once again be effective. An owner, occupant, lessee or person substantially in control of the property can be issued an ordinance violation and fine under this Article of the Code. However, it is important to note that under the empowering statute, the costs of abatement can be collected only from the owner of the property. An ordinance violation in addition to the recovery of the costs of the abatement can be pursued. For a lien to be effective against the property, the empowering statute requires a notice must be sent, not to the owner but to the person who received the last property tax bill. If a property has recently changed hands, the notice of lien may wind up being sent to the former owner who may not care if the lien is discharged or not.